

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SHAWN ABRAUGH,

Plaintiff,

v.

WALMART, INC., et al.,

Defendants.

Case No. 1:23-cv-01387-SAB

ORDER DIRECTING CLERK OF COURT TO
ASSIGN DISTRICT JUDGE TO CLOSE CASE
AND ADJUST THE DOCKET TO REFLECT
VOLUNTARY DISMISSAL PURSUANT TO
RULE 41(a) OF THE FEDERAL RULES OF
CIVIL PROCEDURE

(ECF No. 5)

Plaintiff initiated this action on September 22, 2023 against Defendants Walmart, Inc. and Gregory Hanes. (ECF No. 1.) Plaintiff did not file any proof of service and neither Defendant has appeared. In light of the scheduling conference set for January 4, 2024, the Court ordered a status report and continued the scheduling conference. (ECF No. 4.) On January 4, 2024, Plaintiff filed status report and a notice of voluntary dismissal of the entire action. (ECF Nos. 4, 5.)

Under Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, “a plaintiff has an absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a motion for summary judgment.” Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999) (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)).

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1 In light of the notice of dismissal, this action has been terminated, Fed. R. Civ. P.
2 41(a)(1)(A)(i); Wilson v. City of San Jose, 111 F.3d at 692, and has been dismissed without
3 prejudice and without an award of costs or attorneys' fees.

4 Accordingly, the Clerk of the Court is HEREBY DIRECTED to assign a District Judge to
5 this case for the purpose of closing the case and then to adjust the docket to reflect voluntary
6 dismissal of this action pursuant to Rule 41(a).

7
8 IT IS SO ORDERED.

9 Dated: January 5, 2024


UNITED STATES MAGISTRATE JUDGE